

REMARKS/ARGUMENTS

The office action mailed August 18, 2006 has been received and its contents carefully considered. Reconsideration and withdrawal of the outstanding rejections are respectfully requested in view of the foregoing amendments and the following remarks.

The indication in the office action that the election/restriction and the 112, second paragraph rejections from the non-final office action, as well as the double patenting rejection from the non-final office action have been withdrawn is noted with appreciation.

Accordingly, it is believed that the remaining rejections with regard to claims 14-21 are solely the 102 and 103 rejections set forth in the previous non-final office action. All of these rejections are respectfully traversed for the following reasons.

Claim 14

Turning first to independent claim 14, without conceding the propriety of the rejection, independent claim 14 has been amended to recite a first step of (i) *extruding into a tube shape a tubular smooth inner fluoropolymer layer*; (ii) *forming a substantially continuous jacket* over the inner fluoropolymer layer while *adhering the jacket and the first inner layer together*; and (iii) corrugating the jacket. The rejection is respectfully traversed for the following reasons.

As noted in the previously filed response, the present invention includes some embodiments which, by way of example, may have an extruded inner layer, such as inner layer 12 (shown in Fig. 1), as well as a substantially continuous jacket, such as for example the jacket 14 (shown in Fig. 1). Therefore, these embodiments have *an extruded tubular inner layer* and a *separate outer jacket* surrounding the inner tubular layer adhered to the inner layer.

Claim 14 specifically calls for the inner layer to be an extruded tubular layer. Extrusion is a process where material is forced through a die having a desired cross-sectional shape and exits the die with a desired cross-sectional shape. In this case, the cross-sectional shape is tubular, as recited in amended independent claim 14.

The final office action is understood to contend that the patent to Egres (U.S. Patent No. 6,016,848) discloses extruding a smooth inner layer. However, the Egres patent has been reviewed carefully, and in no way is seen to teach extruding a tubular layer at all. To the contrary, the cited portions explain that *the tubes in Egres are formed by wrapping, not extrusion*. In particular, column 6, lines 37-43 of Egres specifically describes *wrapping* bi-axially expanded membrane *in a coil fashion*. Further, a general reading of Egres shows that this reference is concerned with wrapping a sheet-like material around a mandrel in order to form a flexible tube. This in no way is seen to teach or suggest extruding a tubular shape as recited in amended independent claim 14. *Even if the sheet-like material might have been extruded, this does not teach or suggest extruding the tube shape directly via extrusion.* It is believed that claim 14 is therefore patentable for at least this reason. Further, the secondary references are not cited to remedy this deficiency in the primary reference.

Claim 14 also calls for *forming a jacket* over the tubular inner layer and *adhering the jacket* to the inner layer. In this instance, it is unclear to Applicants what structure of Egres is being relied upon in the rejection. For example, Figs. 6 and 7 do illustrate helical and nonhelical wrapping structures. However, *these wrapping structures in Egres form the entire tube itself*, and are not in any way formed over an inner extruded tubular layer adhered to the inner layer as recited in claim 14. (The wrapped structure of Egres is formed over a mandrel during the manufacturing process, but this mandrel is solid and is removed, and does not correspond to a

recited tubular smooth inner layer. Moreover, the wrapped structure of Egres is not adhered to the mandrel).

The deficiencies noted above with respect to Egres concerning independent claim 14 are also not remedied by the secondary citations. Accordingly, claim 14 is believed patentable for at least this reason as well as the prior reason given above.

Moreover, the combination of two features which is described above is further not taught nor suggested by Egres. Rather, *Egres is seen to teach or suggest a single wrapped structure and not a structure having both a tubular extruded inner layer and a jacket adhered to the outside of the extruded tubular layer* as recited in claim 14.

Claims 24 and 25 are dependent claims which are newly added. These claims recite particular types of extrusion which are preferable in some embodiments and which are mentioned in the specification in the paragraph beginning at the bottom of page 4 and continuing at the top of page 5. Independent consideration of these claims is respectfully requested.

Turning to the remaining dependent claims 15-21, these claims were treated in detail in the amendment previously filed by Applicants on May 2, 2006. Applicants do not provide additional arguments at this time, because the final office action does not provide any separate treatment of the dependent claims, other than a reference back to the earlier non-final office action. Accordingly, Applicants reproduce below the remarks that were provided with respect to the dependent claims from the previously filed amendment. Again, independent consideration and treatment of the dependent claims is respectfully requested, particularly keeping in view of the remarks made with respect to the independent claims above. The dependent claims are believed allowable for depending from a patentable independent claim and further for defining additional features in their own right.

Claim 16

The Examiner rejects claim 16 under 35 U.S.C. § 103 as obvious over Egres in view of U.S. Patent No. 3,976,414 to Hegler et al. (“Hegler”). To establish a *prima facie* case of obviousness, the Examiner must demonstrate some suggestion or motivation to combine one or more references, with a reasonable expectation of success, to teach each and every claimed limitation. MPEP § 2142. Applicants submit that the Examiner has failed to meet this burden.

As described above, Egres fails to teach “a substantially continuous jacket over the inner fluoropolymer layer[.]” Hegler does not cure this deficiency. Rather, Hegler teaches that the outer tube abuts the inner tube only at the nadir of the corrugations of the outer tube. Hegler, Col. 1, Lines 9-13; see also FIGS. 1-3 (illustrating discontinuities between first and second streams of plastic 3, 7 formed by train of molds 4). Thus, Applicants contend that the asserted combination fails to teach each and every element of the present invention.

Further, Applicants submit that the asserted prior art teaches away from the claimed invention. As described above Egres teaches that the inner layer is formed by wrapping a PTFE membrane about a mandrel. Far from suggesting the desirability of the claimed extrusion step, invention, Egres expressly disfavors the use of an extruded inner layer. Egres, Col. 1, Lines 47-50. Consequently, one of ordinary skill in the art would clearly not consider modifying Egres by extruding the inner layer, for example by combining Egres with Hegler, which teaches concurrent extrusion of *both* the inner layer *and* the outer layer, lest the advantages of the Egres membrane-wrapped construction become lost in the resultant combination.

Since the asserted references teach away from the claimed invention, the combination is improper, and cannot be used to sustain a *prima facie* case of obviousness. Further, even if the

combination were proper, it would fail to teach each and every element of claim 16. Applicants therefore earnestly solicit withdrawal of the rejection of claim 16 under section 103.

Claim 18

The Examiner rejects claim 18 under 35 U.S.C. § 103 as obvious over Egres in view of U.S. Patent No. 5,653,266 to Reynolds et al. (“Reynolds”). Applicants respectfully disagree.

As described above, Egres teaches away from the claimed invention insofar as it clearly disfavors the use of extrusion. Like Hegler, Reynolds teaches extrusion. Reynolds, Col. 3, Lines 36-40. Since the asserted prior art teaches away from the claimed invention, the rejection is improper and should be withdrawn.

Claim 21

The Examiner rejects claim 21 under 35 U.S.C. § 103 as obvious over Egres in view of U.S. Patent No. 5,324,557 to Lupke (“Lupke”). Applicants respectfully disagree.

As described above, Egres teaches away from the claimed invention insofar as it clearly disfavors the use of extrusion. Like Hegler and Reynolds, Lupke teaches extrusion. Lupke, Col. 3, Lines 62-68. The Examiner has therefore failed to establish that claim 21 is *prima facie* obvious, and Applicants respectfully request withdrawal of the rejection of claim 21 under 35 U.S.C. § 103.

CONCLUSION

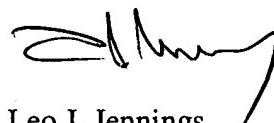
In view of the foregoing, reconsideration and allowance of the application is believed in order and such action is earnestly solicited.

Entry of this amendment after final rejection is believed in order and is respectfully requested. The arguments presented are substantially the same and further clarify the distinctions highlighted in the previously filed amendment in response to the non-final office

action. It is respectfully requested that consideration of this amendment will not require undue time and effort on the part of the Examiner.

Should the Examiner believe that a telephone conference would expedite issuance of the application, the Examiner is respectfully invited to telephone the undersigned attorney at (202) 861-1792.

Respectfully submitted,
BAKER & HOSTETLER LLP



Leo J. Jennings
Reg. No. 32,902

Date: November 16, 2006
Washington Square, Suite 1100
1050 Connecticut Avenue, NW
Washington, DC 20036-5304
Telephone: 202-861-1500
Direct: 202-861-1545
Facsimile: 202-861-1783